IN THE HIGH COURT OF JUDICATURE AT BOMBAY
Appellate Side

Writ Petition No.2l35 of 2005

United India Insu Co Ltd Bombay ..Petitioner
vs
Homi Framroz Mehta and ors.....Respondents

Mr V Y Sanglikar for petitioner
Mr US Makhija for respondents

CORAM: A.P.SHAH J.

Dated l7.l0.2005

P.C:

1. I have heared the learned counsel for the parties. I have also gone through the impugned order of the trial court. By this order the trial court has permitted the plaintiff to produce a registered trust deed on record. Learned counsel for the petitioner contended that in view of deletion of rule l7A of Order l8 of the CPC the court has no power to permit production of the document at a late stage. He also contended that the plaintiff is trying to plug the loopholes occurred in the evidence during the trial and the production of the document ought not tohave been permitted. at such belated stage. I do not find any substance in the submissions of the learned counsel.

2. In Salem Advocates Bar Association vs Union of

India, (2005) 6 SCC 344, the Supreme Court has held that even before the insertion of Order l8 rule l7A, the court had inbuilt power to permit parties to produce evidence not known to them earlier or which could not be produced in spite of due diligence. Order l8 rule l7A did not create any new right but only clarified the position. Therefore, deletion of Order l8 rule l7A does not disentitle production of evidence at a later stage. On a party satisfying the court that after exercise of due diligence that evidence was not within his knowledge or could not be produced at the time the party was leading evidence, the court may permit leading of such evidence at a later stage on such terms as may appear to be just.

3. It is well settled law that if a document is found to be relevant to decide the real dispute in the controversy, and when the court felt that interest of justice requires that the document may be received, exercising the power under section 151 of CPC the court would receive the document and consider its effect thereof. In the facts and circumstances of the case, in my opinion, the trial was right in permitting the plaintiff to produce the registered trust deed on record. No interference is called under Art 227. Petition is

dismissed.